



FEBRUARY 2011

Facebook Firing Case Resolved Prior to NLRB Hearing: Will the NLRB Be Knocking at Your Door Next?

The media has been all "a-Twitter" about the case of Dawnmarie Souza, allegedly fired by her employer, American Medical Response of Connecticut, Inc. (AMR), because she posted negative comments about her boss on her Facebook page. Last fall, the National Labor Relations Board's (NLRB) Regional Office in Hartford had issued an unfair labor practice charge claiming that Ms. Souza's discharge violated the National Labor Relations Act because she was engaged in protected activity when she posted disparaging comments about her supervisor on Facebook and that AMR's social media policy was illegal. The parties reached a settlement on February 7, 2011, requiring AMR to change its work rules regarding blogging, Internet posting, and communications between employees. AMR also agreed that it would not deny employee requests for union representation nor threaten employees who request union representation with discipline. Although this settlement forecloses the possibility of any concrete guidance regarding the Board's developing approach to social media cases, the case provides notice to employers—unionized and non-unionized—that the National Labor Relations Board is paying attention to workplace rules involving media of all types.

To that end, earlier this month another [NLRB charge](#) was filed against a Connecticut employer, alleging that the company violated the National Labor Relations Act by "maintaining" a policy against "[t]he use of electronic communication and/or social media in a manner that might target, offend, disparage, or harm customers, passengers or employees; or in a manner that might violate any other company policy." This pending case will hopefully shed more light on how the NLRB interprets electronic communication, including social media policies.

In the age of social media, a social networking policy may be an essential part of an employee handbook. Social networking policies are not "one size fits all" and in any event should be crafted to match the employer's business needs, priorities, and expectations. The National Labor Relations Act protects both union and non-union employees from adverse employer action when coworkers are engaged in concerted protected activity. Therefore, both union and non-union employers might want to review their social networking policies to ensure that they are not overly broad and do not improperly restrict employees from engaging in protected concerted activity. This may include discussing their wages, hours, working conditions, and other terms of employment with coworkers. Employers that require the use of social media for business development or other purposes may wish to consider specifically addressing how employees are permitted to use social media when representing the company.

To receive additional information regarding social networking policies or how to respond to social networking policy violations, please contact one of the following attorneys:

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SAVE THE DATE

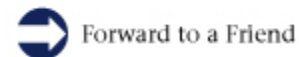
**March 30, 2011
12 p.m. ET**

**Social Media Policy
Webinar**

This complimentary Webinar will address how employers can manage the potential implications of social media policies in the workplace.

Invitation to follow.

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

Case	Date Filed
34-CA-12906	Feb. 4, 2010

INSTRUCTIONS

File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
1a. Name of Employer Student Transportation of America		b. Number of workers employed	
c. Address (street, city, state, ZIP code) 106 Commerce Road Stamford, CT 06902		d. Employer Representative John Spang, Dir. of Operations	e. Telephone No. (203) 967-9100 Facsimile No (203) 967-3739 Cell No. (203) 918-6332
f. Type of Establishment (factory, mine, wholesaler, etc.) school bus yard		g. Identify principal product or service school bus transportation	
h. The above-named employers have engaged in and are engaging in unfair labor practices within the meaning of section 8(a), subsections (1) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)			
<p>Within the past six months, and at all material times, the Employer has, by maintaining and enforcing the policies in the Driver/Monitor Handbook, including</p> <ul style="list-style-type: none"> a. Use of This Handbook Section: Third, this handbook and the information in it should be treated as confidential. b. Section A, Number 5 Confidential Nature of Work policy; c. Section A, Protection and Proper Use of STA Assets policy; d. Section B, Number 11 Loyalty to the Company policy; e. Section G, The use of electronic communication and/or social media in manner that may target, offend, disparage, or harm customers, passengers, or employees; or in a manner that violate any other company policy; f. Section G, Disruption of the work place operations caused by deliberate actions and/or statements, causing serious morale problems among fellow employees and/or undermining supervision, company policies or rules. Making demeaning/derogatory statements about the company, fellow employees or its customers. g. Section K, Computer, Email, and Internet Policy; <p>and by other policies, has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.</p>			
By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.			
3. Full name of party filing charge (if labor organization, give full name, including local name and number)			
Connecticut State Employees Association, Local 2001, SEIU			
4a. Address (street and number, city, state and ZIP code)		4b. Telephone No. (860) 951-8816 Facsimile No (860)951-8817	
760 Capitol Avenue, Hartford, CT 06106			
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization.)			
Service Employees International Union			
6. DECLARATION			
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.			
By <u>Bob Randall</u> Signature of representative or person making charge (Bob Randall)		Title <u>Organizer</u>	
Address: 760 Capitol Avenue Hartford, CT 06106		Tel.No. (860) 951-8816 Fax. No (860)951-8817	Date <u>Feb. 04</u> , 2010

Privacy Act Statement

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.